IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,	)	
	)	CRIMINAL NO. 4:16-CR-00179-001
v.	)	
	)	
DAVID RAY NELSON,	)	GOVERNMENT'S SENTENCING MEMORANDUM
	)	
Defendant.	)	

A Sentencing Hearing in this matter has been scheduled for Thursday, June 1, 2017, at 10:00 a.m. The United States provides the following information in anticipation of the Sentencing Hearing.

On January 27, 2017, Defendant pled guilty to count 2 of the Indictment, filed November 21, 2016, charging Defendant with a violation of 18 U.S.C. §§ 2252(a)(4)(B), 2252(b)(2) that is Possession of Child Pornography (PSR ¶ 1-2). Upon review of the Pre-sentence Report the Government had no objections to the PSR. The advisory guideline sentence, set forth in the Presentence Report, is 108 to 135 months based on a total offense conduct level of 30 and a criminal history category of II. (PSR ¶ 98).

There only issue to be resolved at the time of sentencing is the appropriate sentence.

In determining a reasonable sentence for the Defendant under the guidelines and the Section 3553(a) factors, the United States would note the defendant possession of over 100 videos depicting child pornography, (PSR ¶ 21); and that some of these videos involved sadistic or masochistic conduct. The defendant has reportedly been downloading child pornography since 2007 and that the instant offense also involved the possession of 7,500 images of child pornography. (PSR ¶ 21).

Pursuant to the Court's request the following information has been acquired from the discovery documents. Of the five series victims only two victims have requested restitution and it appears that regarding the "At School Series", there were two images from this series identified on an item seized from the defendant. Based on the file create dates for all of the contraband files located on the WD My Passport external hard drive (where these images were found), the Defendant possessed these images sometime between 12/28/13 and 7/26/16. Law enforcement officers were unable to locate evidence that the Defendant shared or distributed either of these images (Not in the PSR). Regarding the "Marineland Series", there was one image from this series identified on an item seized from the defendant. There is not a file create date for this file because it was carved from unallocated space of the hard drive inside the HP laptop computer (where the image was found). Law enforcement officers were unable to locate evidence that the defendant shared or distributed this image.

Based on the above facts and the 3553(a) factors a sentence in the advisory guidelines range is a reasonable sentence in this case.

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By: */s/ Cliff Wendel*

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CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2017, I electronically filed the foregoing with the Clerk of Court using the CM ECF system. I hereby certify that a copy of this document was served on the parties or attorneys of record by: X ECF/Electronic filing ______Other means

UNITED STATES ATTORNEY
By: /s/ *M. Jayne*
Legal Assistant